

**Letter of Findings Number: 01-20150133
Individual Income Tax
For Tax Year 2010**

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

Individuals did not prove the proposed assessment wrong. Individuals applied an overpayment of income tax from the previous year which was not available.

ISSUE

I. Individual Income Tax—Estimated Payment Calculations.

Authority: IC § 6-3-4-4.1; IC § 6-3-4-8; IC § 6-8.1-5-1; Dept. of State Revenue v. Caterpillar, Inc., 15 N.E.3d 579 (Ind. 2014); Indiana Dept. of State Revenue v. Rent-A-Center East, Inc., 963 N.E.2d 463 (Ind. 2012); Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue, 867 N.E.2d 289 (Ind. Tax Ct. 2007).

Taxpayers protest a proposed assessment for additional individual income tax.

STATEMENT OF FACTS

Taxpayers are a married couple. After Taxpayers filed their 2010 Indiana individual income tax return, the Indiana Department of Revenue ("Department") adjusted the return to reflect a reduction of a credit for overpayment from Taxpayers' 2009 Indiana income taxes. This adjustment resulted in a two thousand dollar (\$2,000.00) reduction of estimated taxes paid on Taxpayers' 2010 return which in turn resulted in a revision of taxes due for 2010. Taxpayers had originally claimed an overpayment for 2010, but as a result of the Department's adjustments Taxpayers were issued a proposed assessment for 2010 income tax, penalty, and interest. Taxpayers protested the adjustment and the proposed assessment. An administrative hearing was scheduled, but Taxpayers informed the Department that they waived the hearing and requested that the Department make its decision based on the information they previously sent in. This Letter of Findings is therefore based on the information already available to the Department. Further facts will be supplied as required.

I. Individual Income Tax—Estimated Payment Calculations.

DISCUSSION

Taxpayers protest the proposed assessment of Indiana individual income tax for the tax year 2010. Taxpayers also protest the Department's adjustment to their 2010 income tax return which gave rise to the proposed assessment. The Department's adjustment was a \$2,000.00 reduction in estimated tax payments for 2010. That \$2,000.00 reduction was the result of a previous adjustment to Taxpayers' 2009 Indiana income tax return with the result that the \$2,000.00 of overpayment from 2009 which Taxpayers applied to their 2010 return was no longer available. The end result of these adjustments was the elimination of overpayment for 2010 and the issuance of a proposed assessment for income tax for 2010. Taxpayers protest that the full amount applied from 2009 to 2010 was properly applied and that the Department's 2010 adjustment was incorrect.

As a threshold issue, it is the taxpayer's responsibility to establish that the existing tax assessment is incorrect. As stated in IC § 6-8.1-5-1(c), "The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." Indiana Dept. of State Revenue v. Rent-A-Center East, Inc., 963 N.E.2d 463, 466 (Ind. 2012); Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Consequently, a taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. Further, "[W]hen [courts] examine a

statute that an agency is 'charged with enforcing. . .[courts] defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party.'" Dept. of State Revenue v. Caterpillar, Inc., 15 N.E.3d 579, 583 (Ind. 2014). Thus, all interpretations of Indiana tax law contained within this decision, as well as the preceding audit, shall be entitled to deference.

Taxpayers state that they properly applied the overpayment they had listed on their 2009 Indiana income tax return as a payment of their estimated tax payments for their 2010 Indiana income tax, as provided by IC § 6-3-4-4.1. Taxpayers argue that the Department incorrectly adjusted that 2009 overpayment to reflect a \$2,000.00 reduction of the overpayment and that they correctly reported overpayments of Indiana income tax for 2010 as well. Therefore, Taxpayers protest that they did overpay Indiana income taxes for 2010 and that no income tax is due for that year.

After a review of the Department's records, the Department does not agree with Taxpayers. The Department's records show that in 2003 the Department made an adjustment to Taxpayers' reported Indiana income which resulted in a reduction of the claimed overpayment of income taxes for 2003. That adjustment was due to the 2003 return claiming a refund of excess withholding being submitted beyond the statute of limitations, as provided by IC § 6-3-4-8(h) during those years. The Department's records show that it mailed notice of this adjustment to Taxpayers. This adjustment in turn reduced the amount of overpayment available to apply to Taxpayers' 2004 Indiana income taxes.

Taxpayers did not take the 2003 adjustment into account when filing their 2004 Indiana income taxes and thus the claimed 2003 overpayment was not accurate on their 2004 return. This resulted in an adjustment by the Department in the form of a reduction of estimated payments of income tax during 2004. This adjustment was not reflected on Taxpayers' 2005 Indiana Income tax return and the result was a reduction of estimated income tax payments during 2005. This pattern continued in 2006, 2007, 2008, and 2009. Therefore, when Taxpayers filed their 2010 Indiana income tax return, the amount that they thought they had overpaid in 2009 was not accurate. The amount adjusted by the Department for 2010 was only the latest link in a chain of Taxpayers' underpayments and the Department's adjustments dating back to 2003. There is no evidence to show that any of the Department's adjustments leading up to the 2010 adjustment were incorrect. Thus, there is no evidence that the Department's 2010 adjustment, recalculation of taxes due, and proposed assessment were incorrect. Therefore, Taxpayers have not met the burden imposed under IC § 6-8.1-5-1(c) of proving the proposed assessment incorrect.

FINDING

Taxpayers' protest is denied.

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